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UNITED STATES DEPARTMENT OF AGRICULTURE
PRODUCTION AND MARKETING ADMINISTRATION
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PROSECUTIONS, SEIZURES, AND CEASE AND DESIST ORDERS
UNDER THE FEDERAL SEED ACT

January 1, 1945, to June 30, 1945, (Nos. 104-110)

104. False labeling of rye and lespedeza seed. U. S. v. Green Brothers Seed Company, Nashville, Tenn. Plea of guilty. Fine, \$500. (F. S. 408.)

Green Brothers Seed Company, Nashville, Tenn., in September 1942, delivered for transportation in interstate commerce from Nashville, Tenn., to Harrisonville, Mo., 136 bags of rye seed, and in November and December 1942, delivered for transportation in interstate commerce from Nashville, Tenn., to five different dealers in Mississippi, 425 bags of lespedeza seed.

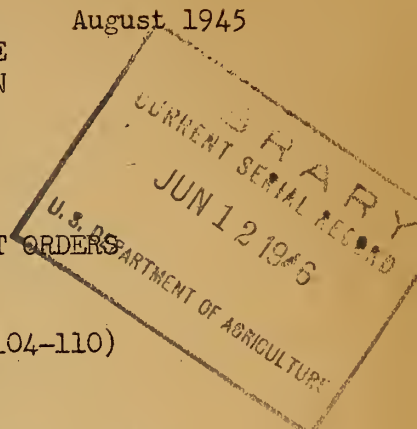
Information was filed in the District Court of the United States for the Middle District of Tennessee, Nashville Division, alleging that Green Brothers Seed Company, Nashville, Tenn., did unlawfully deliver for transportation in interstate commerce the above-mentioned shipments of seed in violation of the Federal Seed Act. The violations were as follows:

1. Labels were not attached to the 136 bags of rye seed at the time of delivery in interstate commerce but were given the consignee at the time of delivery and bore, in part, the statement "Noxious Weeds per Pound None"; whereas, a sample representing the seed was found to contain field bindweed, considered a noxious-weed seed in the State of Missouri, at the rate of 11 per pound. Agricultural seed containing field bindweed is prohibited from sale in the State of Missouri and the shipment of such seed into the State is therefore prohibited by the Federal Seed Act.

2. Of the 425 bags of lespedeza seed, 300 were labeled, in part, "Noxious Weeds per pound in excess of 1 per 5 grams 200 dodder"; whereas, samples representing the deliveries were found to contain dodder seed at the rate of 980, 875, 1,034, and 801 per pound, respectively.

The remaining 125 bags of lespedeza seed were labeled, in part, "Noxious Weeds per pound in excess of 1 per 5 grams 64 dodder"; whereas, a sample representing the seed was found to contain dodder seed at the rate of 324 per pound.

An indictment was voted during the October 1944 term of the Grand Jury at Nashville, Tenn., and on February 22, 1945, Louis A. Green, a member of the firm of Green Brothers Seed Company, entered a plea of guilty to all five counts and the court imposed a fine of \$100 on each count or a total of \$500.



105. False labeling of sweetclover seed. U. S. v. 3 bags of sweetclover seed. Seed seized and ordered destroyed. (F. S. 424.)

The Jenks-White Seed Company, Salem, Oreg., delivered on November 6, 1944, for transportation in interstate commerce from Salem, Oreg., to Sacramento, Calif., 3 bags of sweetclover seed. A libel was filed on January 6, 1945, in the United States District Court for the Northern District of California, praying seizure of this seed and alleging same to be falsely labeled in violation of the Federal Seed Act.

The seed was labeled for processing; whereas, the consignee purchased the seed for seeding purposes and not for processing. The seed was also found to be in violation of the act in that a sample representing the seed was found to contain whitetop (Lepidium draba, also known as Cardaria draba) at the rate of 2,706 seeds per pound of sweetclover. Whitetop is considered to be a primary noxious-weed seed in the State of California and the sale of seed containing this primary noxious-weed seed is prohibited from sale in that State and, therefore, prohibited from shipment into that State under the Federal Seed Act.

The seed was seized by the United States marshal and on February 19, 1945, the court ordered that the seed be destroyed.

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106. False labeling of sorghum seed. U. S. v. Manley A. Casement, trading as the Casement Grain and Seed Company, Sedan, Kans. Plea of guilty. Fine, \$15 and costs. (F. S. 426.)

The Casement Grain and Seed Company, Sedan, Kans., on or about March 16, 1944, delivered for transportation in interstate commerce from Sedan, Kans., to Rogers, Ark., 67 bags of sorghum seed.

Information was filed in the United States District Court for the District of Kansas alleging that the Casement Grain and Seed Company delivered for transportation in interstate commerce the above-mentioned shipment of seed in violation of the Federal Seed Act.

Labels attached to the bags of sorghum seed represented the seed to have a germination of 84 percent; whereas, a sample representing the seed showed a germination of 37 percent in March 1944.

On February 14, 1945, the Casement Grain and Seed Company entered a plea of guilty and the court imposed a fine of \$15 and costs.

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107. False labeling of rye and soybean seed. U. S. v. Malden Grain Company, Inc., Malden, Mo. Plea of nolo contendere. Fine, \$100 on each of three counts. (F. S. 427.)

The Malden Grain Company, Inc., on September 29, 1943, delivered for transportation in interstate commerce from Malden, Mo., to Walnut Ridge, Ark., 40 bags of rye seed; and in March 1944, delivered for transportation in interstate commerce from Malden, Mo., to Batesville, Ark., 10 bags of soybean seed; and in April 1944, delivered for transportation in interstate commerce from Malden, Mo., to Jonesboro, Ark., 10 bags of soybean seed.

Information was filed in the District Court of the United States for the Eastern District of Missouri alleging that the Malden Grain Company, Inc., Malden, Mo., delivered for transportation in interstate commerce the above-mentioned shipments of seed in violation of the Federal Seed Act.

Labels attached to the 40 bags of rye seed represented the seed, in part, to have a germination of 90 percent; whereas, a sample representing the seed was found to germinate 66 percent in October 1943.

Labels attached to the 10 bags of soybean seed shipped to Batesville, Ark., represented the seed, in part, to have a germination of 90 percent; whereas, a sample representing the seed when tested showed a germination of 67 percent in March 1944.

Labels attached to the 10 bags of soybean seed shipped to Jonesboro, Ark., represented the seed, in part, to have a germination of 80 percent; whereas, a sample representing the seed when tested in April 1944 showed a germination of 36 percent.

On April 9, 1945, the defendant entered a plea of nolo contendere and was fined \$100 on each of the three counts or a total of \$300.

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108. False and incomplete labeling of vegetable seed. U. S. v. Budd D. Hawkins Company, Reading, Vt. Plea of guilty. Fine of \$300. (F. S. 428,)

Budd D. Hawkins Company, Reading, Vt., on January 12 and January 20, 1944, delivered for transportation in interstate commerce from Windsor, Vt., to Fitchburg, Mass., a total of 4 display cases containing an assortment of vegetable seed packets, and on February 2, 1944, delivered for transportation in interstate commerce from Windsor, Vt., to Worcester, Mass., 10 display cases containing an assortment of vegetable seed packets.

Information was filed in the United States District Court for the District of Vermont alleging that the Budd D. Hawkins Company unlawfully delivered for transportation in interstate commerce the above-mentioned shipments of vegetable seed.

Sixteen samples representing vegetable seeds shipped into Massachusetts were found to be below the standards for germination provided for under the Federal Seed Act and the labeling failed to show the germination percentage, the date of the germination test, and the words "Below Standard."

Elmer H. Hawkins, a partner in the firm, Budd D. Hawkins Company, Reading, Vt., pleaded guilty and the court imposed a fine of \$300.

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109. False labeling of lespedeza seed. U. S. v. 45 bags, more or less, of lespedeza seed. One bag of said seed ordered seized and destroyed. (F. S. 429.)

E. L. Kelly, Gallatin, Tenn., on February 21, 1945, transported in interstate commerce from Gallatin, Tenn., to Tompkinsville, Ky., 45 bags of lespedeza seed. A libel was filed in the United States District Court for the Western District of Kentucky praying seizure of 45 bags of lespedeza seed and alleging same to be falsely and incompletely labeled in violation of the Federal Seed Act.

Labels attached to 25 bags of the seed did not show the name and number of noxious-weed seeds present per ounce; whereas, a sample representing the seed was found to contain dodder, wild onion, and buckhorn at the rate of 3, 1, and 1 per ounce, respectively. In addition, the labels did not show the percentage of germination as required by the act.

The remaining 20 bags were labeled to show, in part, 83.17 percent pure seed, 13.44 percent weed seed, and "631,000 noxious"; whereas, a sample representing the seed was found to contain 72.87 percent pure seed, 25.69 percent weed seed including 24.36 percent dodder. In addition, the labels did not show the percentage of germination as required by the act.

On March 30, 1945, the court ordered that the seed be seized. The United States marshal seized 1 remaining bag in possession of the consignee. On May 21, 1945, the seed was ordered destroyed.

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110. False labeling of lespedeza seed, rye seed, and wheat seed.
In re: E. K. Hardison Seed Company, et al. Cease and desist order issued on September 26, 1944, sustained by the Sixth Circuit Court of Appeals. (Federal Seed Docket No. 1.)

On May 14, 1945, the Sixth Circuit Court of Appeals, Cincinnati, Ohio, sustained the order of the War Food Administration issued on September 26, 1944, against the E. K. Hardison Seed Company, Nashville, Tenn. In upholding the order the court clarified a number of points in the administration of the Federal Seed Act that were contested in the case. The case involved seed shipped into two States, but the court interpreted the order to be applicable to all shipments by the E. K. Hardison Seed Company in interstate commerce. The order was affirmed in its entirety.

The court upheld the position that samples may be properly construed as representing an entire lot of seed. It also maintained that the records of the State agencies cooperating with the Federal Government are on an equal footing with records of the Federal Government and that a report by a State officer, of information obtained in the State records, is acceptable as evidence even though the matters referred to are not within the witness' personal knowledge.

In commenting upon the purpose of the Federal Seed Act, the opinion states: "Seeds are the keystone to the agricultural and horticultural industry, an industry which is vital to the life and prosperity of the country. The responsibility resting on the shoulders of those who grow and distribute these essential articles is therefore a heavy one. *** The burden of knowing what is for sale and telling the truth about it is placed on the distributor under the act, because he is presumed to have the better facilities for ascertaining the facts."

The War Food Administration issued the ruling following a hearing on charges that the E. K. Hardison Seed Company made 3 shipments of lespedeza seed between November 1941 and September 1942 which were falsely labeled as to dodder content, 2 shipments of rye during the same period which were not correctly labeled as to germination, and 1 shipment of wheat which was not correctly labeled as to the presence of noxious-weed seeds. It was the first such order issued under the act and directed the E. K. Hardison Seed Company to "cease and desist from shipping or delivering for transportation to another State agricultural seeds to which are attached labels containing false statements or labels not showing the presence of seeds considered seed of noxious weeds by the laws of another State into which the seeds are transported."

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